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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,262	11/25/2005	Jukka Holm	857.0030.U1(US)	3463
29683	7590	05/12/2010	EXAMINER	
HARRINGTON & SMITH 4 RESEARCH DRIVE, Suite 202 SHELTON, CT 06484-6212			TRAN, PAUL P	
			ART UNIT	PAPER NUMBER
			2618	
			MAIL DATE	DELIVERY MODE
			05/12/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/542,262	Applicant(s) HOLM ET AL.	
	Examiner PAUL P. TRAN	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 28-31 is/are pending in the application.
- 4a) Of the above claim(s) 27, 32 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 28-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments in the remarks filed on 02/12/2010 with respect to claims 1-26 and 28-31 have been considered, but are moot in view of the new ground(s) of rejection. Claims 27 and 32-33 are cancelled by the Applicant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11, 13-26 and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagasawa (US Pat. 6707908, hereinafter "Nagasawa") in view of Yoon (US Pub. 20020052224, hereinafter "Yoon").

2.1. Regarding claims 1, 20, 22, 26, 30 and 31 discloses a mobile telephone (Nagasawa: a terminal device as illustrated in Figs. 1, 3 & 4), comprising: an audio output section configured to alert a user to an incoming call by playing a

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musical audible alert (Fig. 1, ref 5, 16, 17, Col. 4: 14-29, Col. 4: 30-55, the memory contains melodies or medley melody for playing incoming call announcement); a user input configured to cause an incoming call to be answered (Col. 5: 6-13, the incoming call is accepted using key input part 10); a memory embodying a data file comprising a replacement musical sequence (Fig. 1, ref 7, 12, Col. 4: 14-55, memory part 7, 12, containing built-in memory and medley melodies as shown in figure 2); and a controller, responsive to the user input, configured to control the audio output section to terminate the musical audible alert while the musical audible alert is being played, in response to the user input or after the musical audible alert has been playing for more than a predetermined threshold duration, by playing a replacement musical sequence (Fig. 1, ref 3, Col. 4: 14-29, the control part 3 comprising MPU or DSP for processing sound; wherein the control part can terminate the audible alert by playing the medley melodies, the plurality of pieces of music playing in sequences; Figs. 5A-B, Col. 5: 63-Col. 6: 23, the first introduction music is playing at an introduction scan time set to a time period T1, equaling to number of seconds in duration; the musical sequences are also played in response to user's input sequences previously programmed in the control part 3); However, Nagasawa fails to disclose where the replacement musical sequence is played as a conclusion to the musical audible alert.

Yoon discloses where the replacement musical sequence is played as a conclusion to the musical audible alert (Figs. 2A-D, melody, i.e. musical

sequence is programmed by the user. Figs. 3A-B, Page 2: [0021], a controller 10 determines at step 108 whether the melody selection item is selected by the user, and if "Yes" is selected, the selected melody will be used to terminate the ringtone).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Yoon's ringtone terminating to Nagasawa's mobile terminal to improve the convenience to easily set various terminating ringtones with musical melodies (Yoon: Page 1: [0007]-[0008]).

2.2. Regarding Claims 2 and 21, Nagasawa and Yoon disclose the apparatus, further comprising a user input, wherein the controller, responsive to the user input, controls the audio output section to terminate the musical audible alert while it is being played (Nagasawa: Fig. 1, ref 3, Col. 4: 56-Col. 5: 13, control part 3 in response to the incoming call by playing the medley melody, multiple of melody pieces in sequence).

2.3. Regarding Claim 3, Nagasawa and Yoon disclose the apparatus as claimed in claim 1, wherein the audio output section comprises a synthesizer (Nagasawa: Fig. 1, ref 5, Col. 5: 6-13, the control part 3 comprising a MPU or DSP for processing the audio signal via the sound data processing part, i.e. synthesizer).

2.4. Regarding Claim 4, Nagasawa and Yoon disclose the apparatus as claimed in claim 3, wherein the synthesizer processes a data stream

representative of the musical audible alert in real time (Nagasawa: Figs. 1-2, Col. 4: 56-Col. 5:13, the data processing part processing melody data as audible alert in real time).

2.5. Regarding Claim 5, Nagasawa and Yoon disclose the apparatus as claimed in claim 4, wherein the audio output means section is arranged to vary the data stream in real time to introduce the replacement musical sequence (Nagasawa: Col. 7: 37-52, the sound is reproduced by playing the medley melody stream in real time).

2.6. Regarding Claim 6, Nagasawa and Yoon disclose the apparatus as claimed in claim 3, wherein the synthesizer is polyphonic (Nagasawa: Col. 8: 18-36, the audio processing part can reproducing a plurality of melody sound, i.e. polymorphic, based on the editing condition).

2.7. Regarding Claims 7 and 24, Nagasawa and Yoon disclose the apparatus as claimed in claim 1, comprising a memory storing a file for producing the musical audible alert (Nagasawa: Fig. 1, ref 7, 12, 19).

2.8. Regarding Claims 8 and 25, Nagasawa and Yoon disclose the data file further comprising a plurality of conditional branching markers each of which is associated with a replacement musical sequence (Nagasawa: Fig. 2, ref 13a-e and in each melody contains a time mark as illustrated in Fig. 4, ref 25 with scan time or Figs. 5A-B, Col. 5: 63-Col. 6: 15, with T1 as scan time and T2 as fade-in/fade-out time).

2.9. Regarding Claims 9 and 23, Nagasawa and Yoon disclose the apparatus wherein the radio transceiver configured to download data representing the replacement musical sequence (Yoon: Page 1: [0006], the conventional method downloads melodies from providing server via Internet and stores it in the memory).

2.10. Regarding Claim 10, Nagasawa and Yoon disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence is of limited duration and concludes the musical audible alert (Nagasawa: Figs. 4-5, Col. 5: 42-Col. 6: 4, the melody pieces having length in order of seconds).

2.11. Regarding Claim 11, Nagasawa and Yoon disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence is pre-determined (Nagasawa: Fig. 2, Col. 4: 41-55, the medley melody are pre-programmed).

2.12. Regarding Claim 13, Nagasawa and Yoon disclose the apparatus as claimed in claim 1 wherein the audio output means section is configured to terminate the musical audible alert by introducing and playing any one of a plurality of pre-determined replacement musical sequences (Nagasawa: Fig. 2, Col. 4: 41-Col. 5: 5, the medley melody is playing when the terminal receives an incoming call).

2.13. Regarding Claim 14, Nagasawa and Yoon disclose the apparatus as claimed in claim 13, wherein each individual one of the plurality of pre-determined replacement musical sequences is associated with a particular

portion of the musical audible alert (Nagasawa: Fig. 2, Col. 4: 41-55, the medley melody is formed by combining the existing melody in the memory).

2.14. Regarding Claim 15, Nagasawa and Yoon disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence is automatically generated (Nagasawa: Col. 7: 37-52, the melody in the medley memory are played and reproduced as pre-programmed).

2.15. Regarding Claim 16, Nagasawa and Yoon disclose the apparatus as claimed in claim 15, wherein the generated replacement musical sequence is dependent upon information characterizing the musical qualities of the musical audible alert (Nagasawa: Fig. 7a-i, Col. 8: 46-56, the medley melody quality is dependent to the quality of the original melody in memories).

2.16. Regarding Claim 17, Nagasawa and Yoon disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence varies any one or more of: the arrangement of the musical audible alert; the music of the musical audible alert; the tempo of the musical audible alert; and the volume of the musical audible alert (Nagasawa: Fig. 2, Col. 4: 41-55, the melody is varied differently by arrangement of melody combination with different pieces of music).

2.17. Regarding Claim 18, Nagasawa and Yoon disclose the apparatus as claimed in claim 1, wherein the replacement musical sequence when played fades out the musical audible alert while it is being played (Nagasawa: Figs. 5a-b, Col. 6: 16-23).

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2.18. Regarding Claim 19, Nagasawa and Yoon disclose the apparatus as claimed in claim 1 operable as a mobile telephone (Nagasawa: Figs. 3-4, Col. 5: 42-51, the apparatus is a portable terminal device).

2.19. Regarding claims 28 and 29, discloses an apparatus (Nagasawa: a terminal device as illustrated in Figs. 1, 3 & 4), comprising: a memory storing a plurality of musical data files for playing a mobile telephone musical alert, each of the stored musical data files comprising at least one conditional branching markers wherein each of the conditional branching markers is associated with a replacement musical sequence (Fig. 1, ref 12, 13, Col. 4: 14-40, memory part 12 containing melodies of Fig. 2, ref 13a-e and in each melody contains a time mark as illustrated in Fig. 4, ref 25 with scan time or Figs. 5A-B, Col. 5: 63-Col. 6: 15, with T1 as scan time and T2 as fade-in/fade-out time); However, Nagasawa fails to disclose where the replacement musical sequence is played as a conclusion of the associated musical alert for a mobile telephone musical audible alert, where a particular replacement musical sequence associated with a particular one of the conditional branching markers is initiated and played to terminate playing of the associated musical audible alert while the associated musical audible alert is being played at the mobile telephone; and a server, for downloading a musical data file from the memory to the mobile telephone, responsive to a request.

Yoon discloses where the replacement musical sequence is played as a conclusion of the associated musical alert for a mobile telephone musical audible alert, where a particular replacement musical sequence associated with a

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particular one of the conditional branching markers is initiated and played to terminate playing of the associated musical audible alert while the associated musical audible alert is being played at the mobile telephone (Figs. 2A-D, displaying menu used to program to terminate the incoming ringtones with musical melodies by the user. Figs. 3A-B, Page 2: [0021], a controller 10 determines at step 108 whether the melody selection item is selected by the user, and if "Yes" is selected, the incoming ringtone will be replaced with a musical melody termination); and a server, for downloading a musical data file from the memory to the mobile telephone, responsive to a request (Page 1: [0006], the conventional mobile wireless terminal stores in memory ringtones and melodies downloaded from melody provider server via Internet).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Yoon's ringtone terminating to Nagasawa's mobile terminal to improve the convenience to easily set various terminating ringtones with musical melodies (Yoon: Page 1: [0007]-[0008]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

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Patentability shall not be negated by the manner in which the invention was made.

3. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over “Nagasawa” in view of “Yoon” and further in view of Mizuno et al. (US Pub. 2002/0046899 A1, hereinafter “Mizuno”).

3.1. Regarding Claim 12 Nagasawa and Yoon disclose an electronic device as claimed invention above (Nagasawa: Fig. 2, ref 10, Col. 2: 42-59); However, Nagasawa and Yoon fail to disclose, wherein the replacement musical sequence is stored in a Musical Instrument Digital Interface track of a Musical Instrument Digital Interface file.

Mizuno discloses an electronic device wherein the replacement musical sequence is stored in a Musical Instrument Digital Interface track of a Musical Instrument Digital Interface file (Mizuno: Fig. 3(a-b), Page 3:[0042], the piece of music is read out from the database 330 of the server and converted to a replacement by a music selection command).

As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Mizuno’s MIDI file storage to Nagasawa’s and Hayashi’s mobile terminal to improve the reprogramming of the musical alerts for the electronic devices (Mizuno: Page 1: [0002]).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL P. TRAN whose telephone number is 571-270-1944 (FAX. 571-270-2944). The examiner can normally be reached on Monday to Thursday 8:00AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NAY MAUNG can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Wendell/
Examiner, Art Unit 2618

/PAUL P TRAN/
Examiner, Art Unit 2618

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